

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESale PRICE )  
LITIGATION )

MDL NO. 1456  
Civil Action No. 01-12257-PBS

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THIS DOCUMENT RELATES TO ALL )  
CLASS ACTIONS )

Hon. Patti B. Saris  
Chief Mag. Judge Marianne B. Bowler

**DECLARATION OF ANDREW D. SCHAU**

Andrew D. Schau, declares as follows:

1. I am a member of Patterson, Belknap Webb & Tyler LLP, counsel for the Johnson & Johnson defendants. I make this declaration based in part on documents and records maintained by my office, and in part on information supplied to me by other defense counsel.
2. Plaintiffs' motion to certify a class was fully briefed as of January 21, 2005 and argued on February 10, 2005.
3. Attached hereto as Exhibit 1 is a table showing the dates that the documents referenced in plaintiffs' motion to supplement the record were produced or made available for inspection.
4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the rough draft of the transcript of the deposition of Gary M. Owens, taken July 22, 2005.
5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Susan Johnson, taken March 16, 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 3, 2005

/s/ Andrew D. Schau

Andrew D. Schau

**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2005 I caused a true and correct copy of the Declaration of Andrew D. Schau in Support of the Track 1 Defendants' Memorandum in Opposition to Plaintiffs' Motion to Supplement the Record to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/Andrew D. Schau

Andrew D. Schau

# EXHIBIT 1

| <b>Company</b>   | <b>Document</b>      | <b>Production Date</b>                             |
|------------------|----------------------|--|
| AstraZeneca      | AZ0021720 – 22       | December 16, 2002                                  |
|                  | AZ04638881, 95       | June 1, 2004                                       |
|                  | AZ0427859, 79        | June 1, 2004                                       |
|                  | AZ0602164, 98 – 99   | September 22, 2004                                 |
|                  | AZ0692057            | January 24, 2005                                   |
|                  | PXL02780             | June 2005  |
| BMS              | BMS/AWP/00393437     | July 30, 2004                                      |
|                  | BMS/AWP/480634       | July 30, 2004                                      |
|                  | BMS/AWP/480643-44    | July 30, 2004                                      |
|                  | BMS/AWP/393437       | July 30, 2004                                      |
|                  | BMS/AWP/01233084-089 | September 13, 2004                                 |
|                  | BMS/AWP/1233090      | September 13, 2004                                 |
|                  | BMS/AWP/1233114      | September 13, 2004                                 |
|                  | BMS/AWP/1233118      | September 13, 2004                                 |
|                  | BMS/AWP/1233120      | September 13, 2004                                 |
|                  | BMS/AWP/1233124      | September 13, 2004                                 |
|                  | BMS/AWP/1233134      | September 13, 2004                                 |
|                  | BMS/AWP/1233154      | September 13, 2004                                 |
|                  | BMS/AWP/1278450      | September 13, 2004                                 |
|                  | BMS/AWP/1278456      | September 13, 2004                                 |
|                  | BMS/AWP/1278484      | September 13, 2004                                 |
|                  | BMS/AWP/01278475     | September 13, 2004                                 |
|                  | BMS/AWP/01278505     | September 13, 2004                                 |
| GSK              | GSK-MDL-ZN02-052866  | December 12, 2002                                  |
|                  | GSK-MDL-ZN02-052895  | December 16, 2002                                  |
|                  | GSK-MDL-KY01-007599  | July 16, 2003                                      |
|                  | GSK-MDL-KY01-004553  | July 16, 2003                                      |
|                  | GSK-MDL-ZN02-103561  | September 12, 2003                                 |
| J&J Group        | MDL-CEN0003485       | September 26, 2003                                 |
|                  | MDL-OBI00055451      | August 5, 2004                                     |
| Novartis         | App. A.1             | Published 2004                                     |
| Schering/Warrick | SP0012555-56         | December 16, 2002                                  |
|                  | SW0648213-15         | August 30, 2004<br>(made available for inspection) |

## EXHIBIT 2

**REDACTED**

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## EXHIBIT 3



**REDACTED**